

R E M A R K S

Claims 11-2 and 11-16 are currently pending and at issue.

The rejection of claims 1, 2 and 11 as unpatentable over Hengstenberger et al. (US 4,682,671) in view of Nunn et al. (US 2,758,769) and Schoenbrun (US 2,568,304) is respectfully traversed. The rejection is based upon an improper modification of Hengstenberger and Nunn et al. Specifically, Hengstenberger et al. is specifically directed towards providing "a safety harness which is self tightening and securing upon the wearer." (Column 1, lines 67-68). It achieves this by providing the safety harness having "a continuous loop of material connected to itself at a point to define a first large loop and a second smaller loop" (column 2, lines 13-16), so that "a pulling force on the handle loop 16 cinches or grips the wearer of the jacket 20 by placing opposing forces across the middle of the back and the front of the shoulders, assuring that maximum engagement of the victim is achieved by the harness 10" (column 3, lines 40-44). Nunn et al. has as an express object to provide a harness for a child "that can be quickly applied and removed from the child, and which will not slide or fall from the child," (column 1, lines 32-33) and achieves this by utilizing its plate (13) to create a bite (19) such that the "bite 18 is pulled through bite 19; tightening the harness sufficiently to assure that it will not fall off" (column 2, lines 3-5) because "the friction between bites 18 and 19 is sufficient to retain the parts in an adjusted position and still permit the parts to be easily adjusted for removal or to assure the child's comfort." (Column 2, lines 25-28). However, the intended purpose for both Hengstenberger et al. and Nunn et al. would be completely defeated by the proposed modification which requires that the arm

loops of Hengstenberger et al. and Nunn et al. "be fixed at the stacked location, as taught by Schoenbrun, to enable fixed sized loops." This clearly would not allow the cinching and gripping discussed in Hengstenberger et al. and would certainly not allow the adjustment discussed in Nunn et al. Such modifications are strictly forbidden according under the case law and the standards set forth in the MPEP (see MPEP 2143.01, V which states that "the proposed modification cannot render the prior art unsatisfactory for its intended purpose" and that "if the propose modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the purpose modification.") Accordingly, for this reason alone, the rejection is improper and should be withdrawn.

Furthermore, the propose modification also is improper because it changes the principal of operation of both Hengstenberger et al. and Nunn et al. Specifically, as previously discussed, the principal of operation for Hengstenberger et al. is that "a pulling force on the handle loops (16) cinches or grips the wearer of the jacket by placing opposing forces across the middle of the back and the front of the shoulders", and the principal operation for Nunn et al. is that "the bite 18 is pulled through the bite 19; tightening the harness sufficiently to assure that it will not fall off" and that "the friction between bites 18 and 19 is sufficient to retain the parts in adjusted position and still permit the parts to be easily adjusted for removal or to assure the child's comfort." The proposed modification fundamentally changes both these principals of operation by fixing the arm loops to each other at the stacked location so as to provide "fixed sized loops." Again, such a modification is expressly prohibited under the standards set forth in the case law and MPEP. (See MPEP §2143.01, VI stating that "the purpose

modification cannot change the principal of operation of a reference" and that "if the purposed modification or combination of the prior art would change the principal of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.") Accordingly, for this additional reason, the rejection is improper and should be withdrawn.

The rejection of claims 12-16 as unpatentable over Hengstenberger et al. in view of Nunn et al. and Schoenbrun, as applied to claim 1, and further in view of Crouch is respectfully traversed for the reasons set forth above in connection with the rejection of claims 1, 2 and 11. According for those reasons alone or together, the rejection of claims 12-16 are improper and should be withdrawn.

In view of the foregoing, reconsideration of the rejections and allowance of the case are respectfully requested.

Respectfully submitted,

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